

AF # 2200

PTO/SB/21 (02-04)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/087,098	
	Filing Date	03/01/2002	
	First Named Inventor	G. Eric Engstrom	
	Art Unit	2682	
	Examiner Name	West, Lewis G.	
Total Number of Pages in This Submission	42	Attorney Docket Number	109909-129542

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard
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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 330.00

Complete if Known

Application Number	10/087,098
Filing Date	03/01/2002
First Named Inventor	G. Eric Engstrom
Examiner Name	West, Lewis G.
Art Unit	2682
Attorney Docket No.	109909-129542

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METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number: 500393
Deposit Account Name: Schwabe, Williamson et al

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

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FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 0.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below		Fee Paid	
Total Claims		-20** =		X		=	
Independent Claims		-3** =		X		=	
Multiple Dependent						=	

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 0.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	330
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 330.00

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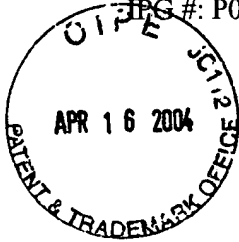
Name (Print/Type)	Aloysius T.C. AuYeung	Registration No. (Attorney/Agent)	35,432	Telephone	503-222-9981
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application for:

ENGSTROM ET AL.

Application No.: 10/087,098

Filed: March 1, 2002

For: **PERSONALIZING ELECTRONIC
DEVICES AND SMART
COVERING**

Examiner: West, Lewis G

Art Group: 2682

CERTIFICATE OF TRANSMISSION/MAILING

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APR 21 2004

Technology Center 2600

Appellant's Brief Under 37 C.F.R. §1.192 In Support Of
Appellant's Appeal To The Board Of Patent Appeals And Interferences

Dear Sir:

The Appellant hereby submits this Brief in support of their appeal from a final decision by the Examiner, mailed November 18, 2003, in the above referenced case. The final decision was in response to arguments filed on Oct 10 2003, in response to an earlier office action, mailed July 31, 2003. Appellant respectfully requests consideration of this appeal by the Board of Patent Appeals and Interferences for allowance of the present patent application.

(1) Real Party In Interest

The real party in interest is Wildseed, Inc, having its primary place of business at 10210 NE Points Dr. Ste 300, Kirkland, WA 98033.

(2) Related Appeals And Interferences

To the best of Appellants' knowledge, there are no appeals or interferences related to the present appeal, which will directly affect, be directly affected by, or have a bearing on the Board's decision.

(3) Status Of The Claims

Claims 80-100 were rejected in the Final Office Action dated November 18, 2003. Claims 80-100 remain pending herein and are reproduced, as pending, in Appendix A.

(4) Status of Amendments

Claims 12 and 20 are amended concurrent with this submittal to correct informality problems noted by the Examiner.

(5) Summary of the invention

Embodiments of the present invention include a novel “intelligent” interchangeable cover for personalizing an electronic apparatus, such as a mobile phone. The cover having an exterior surface non-functionally decorated to support a non-functional theme, and an electronic component with logic/data to personalize the electronic apparatus with characteristics complementary to the theme. Further, the pending claims on appeal are directed towards embodiments where the cover is structurally adapted to only partially cover a portion of the front surface of the electronic apparatus not occupied by a display and keys of the electronic apparatus.

(6) Issues Presented

- I. Whether claims 80-100 are patentable under 35 U.S.C. §103 .

(7) Grouping of claims

For purposes of this appeal, claims 80-100 stand or fall together.

(8) Arguments

Rejection of claims 80-100 under 35 U.S.C. §103 was improper because Wycherly and Sylvan in combination failed to suggest the invention as claimed.

The law is well settled that in determining legal obviousness, “the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against the background, the obviousness or non-obviousness of the subject matter is determined.” *Graham v John Deere Co. Supreme Court of the United States, 1966, 383 US, 1, 86 S.Ct. 684, 15 L.Ed.2d 545.*

Independent claim 80 as pending recites in pertinent part:

“a cover body to mate with a body of an electronic apparatus, to partially cover a portion of a front surface of the body of the electronic apparatus not occupied by a display and a plurality of keys of the electronic apparatus (hereinafter, the “partial coverage limitation”), ...” (underline and annotation added).

Accordingly, claim 80 clearly requires the cover body

- a) to mate with a body of an electronic apparatus, and
- b) to only partially cover a portion of the front surface ... not occupied by a display and a plurality of keys of the electronic apparatus.

Thus, by virtue of the partial coverage limitation recited, claim 1 is inherently directed towards an “intelligent” partial housing cover or a non-housing cover, as it leaves part of the front side of the electronic apparatus (not occupied by the display and the keys) uncovered.

In rejecting claim 80, the Examiner acknowledged that Wycherly does not teach such an “intelligent” partial cover, as Wycherly’s cover is a housing cover that covers the entire front side the mobile phone. However, the Examiner asserted Sylvan’s “removable user interface” remedied Wycherly’s deficiency in teachings. A person of

ordinary skilled in the art, would be motivated to modify Wycherly's full length housing cover to arrive at the partial housing/non-housing cover of the claimed invention in view of Sylvan's teachings. For at least the reasons stated below, Appellant respectfully submits the Examiner erred.

First of all, Syvlan's teachings are directed towards end user interfaces, more specifically a removable user interface to make soft end user interface more user-friendly. Accordingly, Applicant submits Sylvan is non-analogous art. One of ordinary skill in the art of designing interchangeable covers for a portable electronic device (mobile phone in particular) would not look to Syvlan's teachings on end user interfaces for suggestions to modify/improve an "intelligent" interchangeable front cover.

Even if we are to ignore that, Sylvan's removable end user interface merely not cover the portions of the display occupied by the soft end user interface elements, due to its purpose to assist a user in interacting with the soft end user interface elements render on the display. Beyond that, Sylvan's removable end user interface covers the remaining areas of the display (see e.g. Fig. 6, 8 or 9 of Sylvan). Thus, Applicant submits Sylvan merely teaches or suggests to one of ordinary skill to leave the end user elements to be interacted by the user uncovered.

It provides no motivation or suggestion to one of ordinary skill why one would further leave other areas not required for user interaction also uncovered (which is what the "partial coverage limitation" of claim 1 inherently requires).

In particular, it provides no motivation or suggestion to one of ordinary skill why one would modify the full extent front housing cover of Wycherly to a partial housing cover, and leaves some of the internal components in the front of the electronic apparatus exposed.

If no internal components in the front of the electronic apparatus are to be exposed, then the Wycherly cover has fundamentally been changed from a housing

cover to a non-housing "accessory" cover. Applicant submits Sylvan fails to provide such motivation to one of ordinary skill in the art of "interchangeable cover".

Accordingly, Applicant submits the "partial housing" or "non-housing" cover embodiments directed towards by claim 80 is not obvious, in view of Wycherly and Sylvan combined.

Claims 86 and 94 contain in substance the same limitation of claim 80. Accordingly, for at least the same reasons, claims 86 and 94 are also patentable over Wycherley and Sylvan combined.

Claims 81-85, 87-93 and 95-100 are dependent on claims 80, 86 and 94 respectively. Accordingly, for at least the same reasons, claims 81-85, 87-93 and 95-100 are also patentable over Wycherley and Sylvan combined.

(9) Conclusion

Appellant respectfully submits, for at least the reasons set forth earlier, all rejected claims 80-100 are patentable over the cited references. Therefore, Applicant respectfully requests that the Board of Patent Appeals and Interferences overrules the Examiner, and directs allowance of the rejected claims.


(10) Epilogue

This brief is submitted in triplicate, along with a check for ^{\$330.00} ~~<insert \$\$\$>~~ ^{Ac} to cover the filing of appeal brief fee for a small entity as specified in 37 C.F.R. §1.17(c). We do not believe any other fees, in particular extension of time fees, are needed. However, should that be necessary, please charge our Deposit Account No. 500393.

In addition, please charge any shortages and credit any overages to said Deposit Account.

Respectfully submitted,
Schwabe, Williamson & Wyatt, P.C.

Dated: April 13, 2004



By Aloysius AuYeung, Reg No. 35,432
Attorney for Appellant Applicant

Appendix A – Claims As Pending

1 80. (Unchanged) A cover comprising:

2 a cover body to mate with a body of an electronic apparatus, to partially cover
3 a portion of a front surface of the body of the electronic apparatus not occupied by a
4 display and a plurality of keys of the electronic apparatus, the front surface of the
5 body of the electronic apparatus extending from a top edge of the body of the
6 electronic apparatus to a bottom edge of the body of the electronic apparatus and
7 from a left edge of the body of the electronic apparatus to a right edge of the body of
8 the electronic apparatus, and the cover body having an exterior surface non-
9 functionally decorated to provide the electronic apparatus with one or more visually
10 perceivable attributes of a non-functional theme; and

11 an electronic component embedded within the cover body, having data stored
12 therein for customizing functions of the electronic apparatus to operate with
13 characteristics complementary to the visually perceivable attributes of the non-
14 functional theme provided by the non-functional decorations of the exterior surface
15 of the cover body to jointly effectuate the non-functional theme.

1 81. (Unchanged) The cover of claim 80, wherein the electronic component
2 comprises data identifying to the processor of the body of the electronic apparatus,
3 which group of a plurality of covering groups the cover is a member of, each
4 covering group having a non-functional theme.

1 82. (Unchanged) The cover of claim 80, wherein the data comprises at least one of a
2 resource server specification, an email address, an electronic coupon, a font style,
3 an identifier identifying the interchangeable cover, and an approval code.

1 83. (Unchanged) The cover of claim 80, wherein the data comprises a selected one
2 of a pointer to an audio data file and a audio data file, where the audio data file
3 complements the visually perceivable attributes of the non-functional theme provided
4 by the non-functional decorations of the exterior surface of the cover body.

1 84. (Unchanged) The cover of claim 80, wherein the data comprises at least a
2 selected one of a pointer to a screen saver, a pointer to a video data file, a screen
3 saver and a video data file, where the screen saver/video data file is complementary
4 to the visually perceivable attributes of the non-functional theme provided by the
5 non-functional decorations of the exterior surface of the cover body.

1 85. (Unchanged) The cover of claim 80, wherein the electronic component
2 comprises a processor.

1 86. (Unchanged) A mobile phone comprising:

2 a body including a top edge, a bottom edge, a left edge, a right edge, a front
3 surface extending from the top edge to the bottom edge and from the left edge to the
4 right edge, a display and a plurality of keys disposed on a plurality of regions of the
5 front surface, and an internally disposed processor to execute one or more
6 programming instructions; and

7 an interchangeable cover to mate with the body, to partially cover the rest of
8 the front surface not occupied by the display and the plurality of keys, with the
9 interchangeable cover having an exterior surface non-functionally decorated to
10 provide the mobile phone with one or more visually perceivable attributes of a non-
11 functional theme, and an electronic component embedded within the
12 interchangeable cover, having data stored therein for customizing functions of the
13 mobile phone to operate with characteristics complementary to the visually
14 perceivable attributes of the non-functional theme provided by the non-functional
15 decorations of the exterior surface of the interchangeable cover to jointly effectuate
16 the non-functional theme.

1 87. (Unchanged) The mobile phone of claim 86, wherein the electronic component of
2 the interchangeable cover comprises data identifying to the processor of the body,
3 which group of a plurality of interchangeable covering groups the corresponding
4 interchangeable cover is a member of, each interchangeable covering group having
5 a non-functional theme.

1 88. (Unchanged) The mobile phone of claim 86, wherein the data comprises at least
2 one of a phone number, a resource server specification, an email address, an
3 electronic coupon, a font style, an identifier identifying the interchangeable cover,
4 and an approval code.

1 89. (Unchanged) The mobile phone of claim 86, wherein the data comprises a
2 selected one of a pointer to an audio data file and a audio data file, where the audio
3 data file complements the visually perceivable attributes of the non-functional theme

4 provided by the non-functional decorations of the exterior surface of the
5 interchangeable cover.

1 90. (Unchanged) The mobile phone of claim 89, wherein the audio data file
2 facilitates modification of a default voice greeting of the mobile phone to a voice
3 greeting that is complementary to the visually perceivable attributes of the non-
4 functional theme provided by the non-functional decorations of the exterior surface
5 of the interchangeable cover.

1 91. (Unchanged) The mobile phone of claim 89, wherein the audio data file
2 facilitates modification of ring tones of the mobile phone to ring tones that are
3 complementary to the visually perceivable attributes of the non-functional theme
4 provided by the non-functional decorations of the exterior surface of the
5 interchangeable cover.

1 92. (Unchanged) The mobile phone of claim 86, wherein the data comprises at least
2 a selected one of a pointer to a screen saver, a pointer to a video data file, a screen
3 saver and a video data file, where the screen saver/video data file is complementary
4 to the visually perceivable attributes of the non-functional theme provided by the
5 non-functional decorations of the exterior surface of the interchangeable cover.

1 93. (Unchanged) The mobile phone of claim 86, wherein the electronic component
2 comprises a processor.

1 94. (Unchanged) An electronic apparatus comprising:
2 a body including a top edge, a bottom edge, a left edge, a right, a front
3 surface extending from the top edge to the bottom edge and from the left edge to the
4 right edge, a display and a plurality of keys disposed on a plurality of regions of the
5 front surface, and an internally disposed processor to execute one or more
6 programming instructions; and
7 an interchangeable cover to mate with the body to partially cover the rest of
8 the front surface not occupied by the display and the plurality of keys, with the
9 interchangeable cover having an exterior surface non-functionally decorated to
10 provide the electronic apparatus with one or more visually perceivable attributes of a
11 non-functional theme, and an electronic component embedded within the
12 interchangeable cover, having data stored therein for customizing functions of the
13 electronic apparatus to operate with characteristics complementary to the visually
14 perceivable attributes of the non-functional theme provided by the non-functional
15 decorations of the exterior surface of the interchangeable cover to jointly effectuate
16 the non-functional theme.

1 95. (Unchanged) The electronic apparatus of claim 94, wherein the electronic
2 component of the interchangeable cover comprises data identifying to the processor
3 of the body, which group of a plurality of interchangeable covering groups the
4 corresponding interchangeable cover is a member of, each interchangeable
5 covering group having a non-functional theme.

1 96. (Unchanged) The electronic apparatus of claim 94, wherein the data comprises
2 at least one of a resource server specification, an email address, an electronic

3 coupon, a font style, an identifier identifying the interchangeable cover, and an
4 approval code.

1 97. (Unchanged) The electronic apparatus of claim 94, wherein the data comprises a
2 selected one of a pointer to an audio data file and a audio data file, where the audio
3 data file complements the visually perceivable attributes of the non-functional theme
4 provided by the non-functional decorations of the exterior surface of the
5 interchangeable cover.

1 98. (Unchanged) The electronic apparatus of claim 94, wherein the data comprises
2 at least a selected one of a pointer to a screen saver, a pointer to a video data file, a
3 screen saver and a video data file, where the screen saver/video data file is
4 complementary to the visually perceivable attributes of the non-functional theme
5 provided by the non-functional decorations of the exterior surface of the
6 interchangeable cover.

1 99. (Unchanged) The electronic apparatus of claim 94, wherein the electronic
2 component comprises a processor.

1 100. (Unchanged) The electronic apparatus of claim 94, wherein the electronic
2 apparatus comprises a personal digital assistant.